IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1339 OF 2004.

Damodar Madhav Vaidya .... Petitioner.
V/s
Solapur Municipal Corporation & Ors.... .... Respondents.

Mr.R.V.Govilkar, Adv. For the petitioner.

Mr.V.B.Naik, Adv. For respondent Nos. 1 to 3.

CORAM: V.G. PALSHIKAR, Ag.C.J.,

AND

V. M. KANADE, J.

27th July, 2006.

PC:

By this petition the petitioner has made the following prayers:

"(a) That the record and proceedings relating to the show cause notice issued to the petitioner, and the replies filed by the petitioner, be called for;

(b) After going through the same, the respondents be directed by either a writ of mandamus or any other appropriate writ or order in the nature of writ, to release all the service dues benefits or entitlements of the petitioner along with interest at the rate of 18%

per annum from the due date till payment;

(c) For costs of this petition; and

(d) For such other and further reliefs as the nature and circumstances of the case may require."

2. Prayer (a) is calling for records relating to show cause notice issued to the petitioner by the Corporation.

3. Prayer (b) relates to seeking a direction to the respondent to release all the sundry dues, benefits or entitlements to the petitioner with interest.

4. Prayer (c) seeks imposition of costs and prayer (d) relates to any other relief.

5. In reply to the rule nisi an affidavit has been filed by the respondents wherein they have contended that the petitioner is not responding to the various notices issued to the petitioner and then in para 6 it is submitted as under :

"6. It is further submitted that irrespective of the above, the Petitioner was paid an amount of Rs.75,421/- as G.P.F. On dated 4th July, 1996 and an amount of Rs.61,630/- was paid on 14th May, 1997 as Pension Sale amount. It is submitted that the monthly pension, to which the Petitioner is entitled, is being regularly paid to the Petitioner since from

1st July, 1996. It is further submitted that an amount of gratuity of Rs.93,011/- is the only amount which is with held by the Respondents for the reason that the enquiry is pending against the petitioner."

According to this affidavit the only amount which is withheld by the respondents is amount of gratuity.

6. The petitioner has a statutory remedy under the Payment of Gratuity Act, 1972 to seek payment of that amount with interest. That remedy being available to the petitioner, nothing survives in this petition.

7. The contention that there are other benefits to which petitioner may be entitled cannot be entertained at all for the reason that the prayer does not cover such entitlement. In the face of specific statement that the gratuity amount is the only amount withheld being unrebutted, these contentions cannot be considered. Hence petition dismissed.